THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 15842 of 2006

01-08-2006

Between:-

Yeluri Venkateswarlu

Petitioner

And

Sri Lakshmi Narasimhaswamy Vari devasthanam, Mangalagiri, Guntur district rep., by its Executive Officer and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 15842 of 2006

Oral order:

The writ petition is filed for the following relief:

"…declaring the proposed action of the respondent No.1 in conducting auction on 4-8-2006 in respect of the Dry land ad-measuring Ac.07-01 cents comprised in D.No. 158/38 of Konidena village of Ballekurava Mandal, Prakasam district, and dispossessing the petitioner and his family from the same as illegal, arbitrary and consequently direct the respondents to continue the petitioner and his joint family in the above land by raising lease amount reasonably and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner is an individual who claims that he is a member of a joint family consisting of himself and three brothers. It is asserted that the joint family is cultivating dry land in an extent of Ac.07-01 cents in D.No. 158/38 of Kondidena village of Ballekuruva mandal of Prakasham district, belonging to the 1st respondent-Devasthanam since over thirty years. It is also asserted that neither the petitioner nor other members of the family have any other land except the aforesaid extent of land of the 1st respondent-Devasthanam, which is under their cultivation. The petitioner asserts that the family has raised Sababul trees on the land which are three year - old and for the purpose of raising those trees, they have incurred private loans. The grievance of the petitioner is that the 1st respondent has issued a public auction notification on 01-06-2006 proposing conduct of auction on 12-06-2006 for grant of leasehold rights of the land in question. The petitioner claims to be a small farmer and asserts to have requested the 1st respondent to grant extension of lease to him and other family members on a reasonable enhancement of the current lease amount. According to the learned counsel for the petitioner, the auction earlier proposed on 12-06-2006 is now rescheduled to be held on 04-08-2006. In the above

circumstances, the writ petition is filed seeking the reliefs adverted to above.

Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') enacts a legislative declaration that any lease of agricultural land belonging to or given or endowed for the purpose of any institution or endowment, subsisting on the date of commencement of the Act, shall notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person, stand cancelled. The petitioner does not either plead or assert to the existence of a perpetual lease, granted allegedly thirty years back -- Whether in favour of the petitioner as Kartha of the joint family or several extents in favour of each of the brothers, in favour of the petitioner in his individual capacity or even that there was a lease deed executed after following the due statutory and regulatory prescriptions, substantive and procedural, for grant of lease of immovable property of an endowment institution. The writ petition is also wholly and designedly silent as to when a lease was entered into at all, even initially and what is the period of lease so entered, if at all. A vague assertion is made that they are cultivating the lands since thirty years by paying lease amounts.

Sub-section (2) of Section 82 of the Act enacts certain benefits in favour of landless poor persons, an expression defined in the Explanation to sub-section (2) of Section 82 of the Act. According to Section 82 (2) of the Act, the benefits are available only to a landless poor person, who is to be so recognized by the competent authority and who had a lease of agricultural lands of a religious or an endowment institutions for not less than six years continuously.

If the petitioner does not have a lease formally entered into and by following the substantive and procedural requirements of the law, the petitioner could not legitimately claim to be a lessee, leave alone a lessee continuously for a period of six years. There is not even an apology of pleading to satisfy this court as to the status of the petitioner either as a lessee lawfully in cultivation of the lands or entitled to any of the benefits under the Act available to a landless poor person.

The singular fact that the petitioner is paying lease amounts year after year and officers of the endowment department, including the Manager of the 1st respondent-Devasthanam are co-operating with the petitioner in accepting the amounts offered by the petitioner, would neither constitute the Manager of the 1st respondent-

Devasthanam a competent authority nor the petitioner a lawful lessee of the lands of the 1st respondent-Devasthanam. When a social activity is covered and regulated by Statute, recognition for that social activity is derived only if in conformity with the Statute and not by negligent or vagrant conduct of the state actors.

On the aforesaid analysis, the tendering of lease amounts by the petitioner year after year and acceptance of those amounts by the Manager of the 1st respondent-Devasthanam or any other endowment officer would not legitimize the oral arrangement between the petitioner and the Devasthanam trustees or Manager and elevate such arrangement to the status of a lease within the meaning of the Act and the statutory architecture thereunder.

For the aforesaid reasons, the petitioner has no *locus* to resist the conduct of public auction scheduled to be conducted on 04-08-2006. There are no merits. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated:01-08-2006
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